

Participant-Directed Programs Policy Collaborative (PDPPC)

JANUARY 2015 MINUTES – FINAL VERSION APPROVED ON MARCH 25, 2015

Date and Time: **Wednesday, January 28, 2014, 1:00 pm – 4:00 pm**
Location: **MS Society, 900 S. Broadway, 2nd Floor, Denver, CO 80203**

Executive Summary:

We heard about the work of the SLS task force which met to work on the waiver amendment to get CDASS in the SLS waiver. They are still in public comment and plan to get the amendment request to CMS by March 01 for a July 01 start date. We discussed the FAS program reinstatement and how it will be different than it was during the pilot and will discuss in great detail next month. A lot of time was spent discussing the FMS and model choice and training and how to best share information. Candie sought and received feedback about whether or not we should allow FMS vendors to attend training sessions.

The meeting was called to order slightly after 1:00 due to technical difficulties and a room change. Introductions were made and the following were present:

In Room:

Anaya Robinson
April Boehm
Caitlyn Brady
Candie Dalton
Craig Morrison
Curtis Padilla
Darnell Langley
Debbie Miller

Gabrielle Steckman
Grace Herbison
Jason Smith
Jeff Epp
Jeff Pratt CD
John Barry
Kari Vinopal CD
Keith Coppen

Kelly Jepson HCPF
Kelly Tobin
Kirk Miller
Linda Andre
Linda Skaflen
Liz Wuest
Mark Simon
Matt Wuest

Mickey Ogg CD
Rebecca Sturderant
Roberta Aceves
Sara Horning
Tiffani Rathbun
Tim Moran Acces\$
Whitney HCPF
Linda Medina

Excused were Dawn Russell, Sam Murillo, Julie Farrar, Corrine Lindsey

By Phone:

Alisha Singleton CoA
Bev Hirsekorn
Christina Ulmer
Daniel Holzer
David Bolin
Dianne Albrigg ACS
George O'Brien
Hanni Raley

Heather Jones
Jessie Morningstar
Julie Reiskin
Kelly Brown ACS
Kevin Smith
Kristy Michael HCBS
Leslie Taylor
Margaret Proctor

Maria Rodriguez
Maureen Pepin CoA
Renee Farmer
Rhyann Lubitz
Sarah Engels IHSS
Sueann Hughes
William H ?Acces\$

Administrative:

- Linda Skaflen read off voting members and there were no problems.
- John Barry said that the agenda needs to be changed and we needed to do SLS first. No one had a problem with this and the agenda was changed. Because SLS needed more time the working group agreements were going to be postponed until next meeting.
- December PDPPC Draft Minutes: There were no comments or corrections. Linda S moved, Anaya seconded to approve as written. Unanimous

SLS TASK GROUP REPORT: Roberta gave report:

Group met 5 times. The waiver and report went out for public comment on 1/10 and is open for 30 days till 2/9. The group meets on 2/11 to review. All comments will go on listening log and department will respond to all comments. The DIDD has been hearing from stakeholders and appreciates the input. Roberta asks that additional comments come in ASAP. New CMS requirements require they put out entire waiver not only what is changed. People say it is too overwhelming. Roberta said that they are going back and highlighting changes that are made. That document should go out by this evening. She will try to also reference page

numbers. The DIDD also heard that people said health maintenance should be outside of SPAL (Service Plan Authorization Limit) and waiver cap.* The comments said that was not clear so the DIDD has added language to make it clear that health maintenance is outside of SPAL and waiver cap. This is in appendix C but most of the CDASS is in appendix E of the waiver. Linda, David and Rhyann from PDPPC were on task group.

Questions and answers:

- Linda asked about the recommendations that did not get into waiver amendments. She wanted to know why or why not.
Roberta said once report is final it will go to department and department will make comments and respond to recommendations. If the Department approves the recommendations they will be added in and if not they will explain why the recommendations were not added in.
- Roberta said that the goal is March 01 for waiver submission and they are on track for that. She hopes to have it a week before next meeting so we can review. That gives CMS 4 months to review for a July 01 start.
- Leslie asked are you talking about a separate waiver or amendment to an existing waiver? Roberta said this is an amendment to the SLS (Supported Living Services) waiver which is in existence. Leslie asked Roberta if she felt comfortable that this will go through. Roberta said yes.
- Liz: Currently CDASS has three services—will we have personal care and homemaker outside the SPAL like it currently is? Answer: The way it is written only health maintenance is outside the SPAL and waiver cap but homemaker and personal care are inside the SPAL. Task group recommended that personal care be outside of SPAL and waiver.
- Julie suggested that comments need to happen now because next month there will not be time to make changes and get anything through HCPF clearance and have the waiver amendment to CMS by

March 01. Roberta agreed and said any changes need to be pushed for during public comment which is due 2/9

** Linda S. explained that SLS has caps on how much money you can use based on Support Intensity Scale levels which may or may not meet your needs or wants. The amount is defined by a level assigned –the limit is strict –and capped. It is important to understand. There is a cap for each person called the SPAL which are various dollar amounts and a cap on the overall waiver expenditures. Clients cannot get more even if they need it.

- Leslie said that HCPF is required by law to have two public hearings on this and she was not aware of one. She also is concerned that this will be a rushed job. Roberta: She is not aware that we need to have a hearing or meeting. She said HCPF does need to have public comment and posting and has fulfilled that. Leslie: What public place in Cahone did they post it to? Roberta HCPF Web Site. Leslie what about people with no computer? Roberta –did you get what John sent out? He sent out all of the information. Leslie NO I did not get anything. John offered to send it out via snail mail
- Linda S. said that many people in SLS do not have computers. She asked if the CCBS are sending this out. Linda Medina answered on behalf of the CCB in Weld County. She said that due to the short time frame between publication and end of comment they did not mail out to all SLS participants. Not sure if other CCBS did that. She said that we did make sure all of our service providers were aware of this. It was in newsletter. Linda S-asked DIDD if they could send something out to CCBs to tell them to let clients know.
- Leslie said that she had a letter from her SEP and they have no idea what is going on and are asking her for help.
- Roberta reiterated that they really want to hear our comments.

- Linda asked how do we make comments as a group? What is our recommendation as PDPPC? There were three task force members David Bolin, Hanni Raley, Gerri Frohne and Linda Skaflen put together recommendations –some people got that and others did not as she did not have email for everyone but we can share it. She will send to John and he will send to group. Julie suggested that this recommendation be the recommendation of PDPPC and people can determine if they agree after the group can read it.

PDPPC Document Accessibility : John Barry asked that we put date on all documents submitted as handouts.

George O'Brien asked to give public comment early as he was leaving: He said that he would write up his comment and send to John Barry. He said that when someone is leaving a hospital there should be a discharge statement with instructions. This should include review with a provider and advise people about what to expect regarding the underlying disability. This will be sent in email to John and the right staff will respond.

Funds for Additional Services (FAS) Update: Linda Andre said that a handout was provided in the materials before the meeting. In June 2014 we got info from Candie and CMS regarding FAS and there is no reason we cannot reinstate this program but it will be different. It has to be part of the service plan—it can be used for person centered plan to increase independence, reduce human services increase inclusion if client can accommodate the need in the budget without compromising health and must be for exclusive benefit for person.

Questions/Comments:

- Leslie asked what happened to \$\$ we already saved? Candie explained that when you meet with your case manager each year you figure out needs. With other services that is usually about hours or units of services but in CDASS that converts to dollars. There is not a pot of actual money; this is just

authorization to spend these funds for this specific client within entire pool of ALL Medicaid money. If you do not spend it just does not go anywhere it stays in Medicaid.

- Candie said this should be on agenda to talk about it whether or not we make recommendation now
- Mark Fenton said this was done in many other states and was a great idea.
- Caitlyn asked if you underspend your allocation does that mean you get a cut the next year
Answer NO-There are many reasons you might underspend that does not mean your need is reduced
- Maria asked what happened to work group. She wants to be notified if they have more meetings.
Linda A. said she would be notified.
- Keith: During pilot if we did want to use FAS there was application process and we had to send application usually only approved if it was for something Medicaid would not cover. Candie said that this would be different process.
- Maria said that sometimes things are needed that do not save money and that should not be the only consideration. She said our work as employers should be considered as should health related issues.
Candie said she knew that it is not always about the bottom line.
- Mark Simon –could one amend plan in the 11th month? Candie—nothing prohibiting this, but this is not the way the FAS works. It would not be based on saving but on needs.
- Mark –does this mean it has to be Medicaid covered items? Candie-not necessarily and she will bring back what other states allow and what is in the CMS guide.
- Linda S. asked what we need to do to get this going. Candie said that she will need to come up with estimate of cost. Leslie asked if we can we compile from pilot? Candie said that we have some info but not all but she will pull what they have?

- Anaya asked if one could use FAS if you hit your max for home modifications. Candie said good question and she will look into this.
- Sara Horning asked if you could ask for increased services at 11th month due to change in condition – Candie said that this is different question, but if there is change of condition you can ask for assessment of condition and rules dictate when that can be changed. Sara asked what if CM does not act on request. Candie said that all Medicaid clients have a right to fair hearing if services are reduced or denied for any reason you can appeal. If SEP refuses to give a notice let her know.

DECISION- add this discussion to agenda next month when everyone has all documents

FLSA Update: Candie Dalton gave the good news update: The Fair Labor Standards Act. This was the federal home care rule that was going to require all providers including consumer directed providers using agency with choice to pay for overtime and travel time for attendants. This was a problem because some attendants work for multiple clients, among other issues. There were various emails but the district court in DC has vacated that rule. The US Department of Labor has appealed that rule but for now there are NO requirements for overtime or travel time. The appeal process is supposed to be expedited but we do not know when it is going to happen.

Questions/Comments

- Question-was there minimum travel time or distance? Answer NO-it was only travel from one client's home to another client's home.
- Question: Does that include travel time going to first client? NO-travel from attendants' residence or wherever they are when they go to first client.
- Question: In rural area there is 80 mile distance between two clients. Candie: Yes this is why there are concerns about implementing this but at this point we can stop worrying because it has not happened. Leslie said that she did not think you will hear about it for a long time. She said that this may be connected to a Colorado non-emergency medical transportation case regarding paying aides for travel to medical

appointments, which has been going on for 8 years. Maria-wanted to know about the NEMT case. Leslie said it is lawsuit being handled by CCDC and it going up to 10th circuit. She explained it had to do with not paying caregivers that had to transport her.

There were other questions and Candie said that we should wait to operationalize it until we learned if this was real or not.

FMS Transition Status and Open Enrollment: Candie Dalton had some data but her laptop died so she was reporting from memory. As of 1/1/15 82% of clients had chosen Agency with Choice. She said that FMS vendors are now checking eligibility and they are working with county techs if someone is coming up ineligible. She said that most are able to be resolved at local level but if not it can be dealt with by department. Open enrollment goes through June this first year. In future years open enrollment will be for two months. They are not quite sure yet if which two months it will be and are researching several tax related questions before making that recommendation. This means for 2015 one can change models or vendors until June and then people need to stay with their chosen model and vendor until 2016.

Vendors want to do some provider fairs over the next few months.

Candie wanted feedback on a specific issue: **Should FMS vendors be allowed to attend trainings for clients AR and case managers?**

FEEDBACK: There was a lot of good discussion. If people have more they should call or email Candie.

Summary of feedback:

- Caitlyn-yes if they stay in back and not approach clients
- Sounds good but what about reaching the people that get one to one or home based training
- Keith-Would not want FMS in training because there is so much info already.
- One should go into training with info on each FMS on what they have to offer so they can give the info on what they have to offer. There should be more direction from the state about more info on two

models to give more information in the training. The state should give consumer direct the directive – the people who take training ask the trainers what should I choose? The trainers cannot even give an opinion.

- Tim pointed out that FMS agencies are not allowed to market. All materials must be approved by HCPF. They are not allowed to do cold calls.
- Some people suggested that clients can call various FMS providers and ask further questions instead of having the FMS vendors at the trainings. There are clients that may not be able to call or research on line for a variety of reasons. Anaya mentioned that nursing facility clients may not be able to compare any other way because they cannot call 800 numbers only local numbers if they do not have their own cell phones.

It seemed that most people were OK with FMS vendors at training but taking a limited role, and staying in the back, but it was also clear that because so much is already happening at training that this may not be the ideal place and time as clients may not be able to take in any more information. There are some concerns as well.

Other discussion that was not related to the question asked by Candie but that is related to the FMS choice and transition issues:

- Leslie said that this is moot because amendment is not approved by CMS. Candie said CMS is aware of what HCPF is doing and has not given any indication that there is a problem.
- Leslie said that HCPF should look at people been in program for a long time to do the training Her SEP comes to her for training. Leslie said that there should be experienced CDASS client in SEP offices.
- Mark asked what is the process to change FMS now? He asked after June how do exceptions get made? He also asked after 2016 how long people have to make a decision.

Candie replied:

- After 2016 two months (but that is not in stone and this group can recommend to do something different)

- Process to change is contact case manager who then fills out a referral form.
 - Exceptions—we (PDPPC) discussed this and we came to a pretty narrow exception because we do not want people moving all the time-- she will look up specific criteria as that is written down and get that to John to get out with the minutes.
- Mark asked how much time and information are we giving to new enrollees?
Candie: We did not specify timeframe because there are so many variables. During training client should get info about vendors and models. By time the client has a start date they need to have chosen both a model and vendor selected.
- Mark said he was still waiting for the final version of the Frequently Asked Questions and comparison between models and vendors. Candie said she knew and it was important and coming ASAP.
- Debbie Miller was given conflicting information about how long can one change models? Candie said that there is misinformation. This is why they brought on someone to research tax questions. They hired OMNI institute to do this work. Omni is still researching it and by next month they will know for sure. We do not yet know the time frame or specifics. The issue is changing from FEA to FEA. Going from AWC to FEA one can change anytime. It has to be effective first of the month.
- Leslie said one issue in this program is that we are told we are employer or co-employer but that cannot be true because there is no enacting legislation. They may be doing this in other states but no one has brought it to CMS. A Medicaid client cannot be an employer. Therefore we cannot be held responsible for taxes. We pay the FMS 10.75% or \$111 to do this work and they are supposed to have all their ducks in a row and none of them do. Leslie just got a packet yesterday for an employee that has not worked for her for 7 years. The packet asked the employee to choose PPL and have money taken out of her allocation. People may be receiving these packets and chose insurance and that comes out of allocation of person that they may not have worked for over several years. What is she supposed to do—go to a case manager that does not understand the program? The insurance comes out of the employee wages. This is not really choice. The choice needs to be made by the caregiver not just us clients. Candie will follow up about the employee who got the packet. She said she understands the concern with

that. Candie said that we took CMS language in primer and technical guide about the FEA and AWC models. Leslie said she is concerned not just about the one person but all other people.

- There was a lot of discussion about the various ways to get information and what Consumer Direct is doing. They had to revise the training manual. The new manual is almost done through clearance—it is larger but has more information including information about various models.

ASMP (Attendant Support Management Plan) Document Update Candie said that the new version was sent out and wanted to know if there were issues. There are not many changes but a place for clients to indicate the model and FMS vendor. There is a place when doing the budget for clients to consider the cost of health insurance if the client will be offering it to an attendant as the cost comes out of the overall budget.

Leslie asked how could one fill out the budget without the “Show Me The Money” document? Answer: The “Show Me The Money” documents are included with training so people will have info when they fill out ASMP. If someone needs another copy of the current document that they can call their FMS to get a new copy.

PDPPC Forum

- 1) Liz: When will PPL make next round of determining who is eligible for insurance? Answer end of March. People need to know that each FMS has a different process.
- 2) Leslie: I would like to continue to send time sheets as they are to PPL. I have not received any documentation on choice and SEP has no intention of changing my ASMP. Is there any problem with sending in time sheets and paying them as my employees will not chose insurance? PPL response is that there is no problem.

- 3) Keith: During FAS in pilot there were fewer clients than now and wondered what kind of bookkeeping would we need? Candie said we can discuss next month but she was thinking that it flows through case manager.

The meeting adjourned at 4:00 pm

Next Meeting: Wednesday, February 25, 2015, 1:00 pm – 4:00 pm, MS Society

Reasonable accommodations are provided upon request for persons with disabilities. Please notify John Barry at (303) 866-3173 at least one week prior to a meeting if you need accommodations to participate.

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